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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,657	12/08/2003	Robert B. Meek JR.	050704/306291	2999

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EXAMINER

SHEIKH, ASFAND M

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

06/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,657

Applicant(s)

MEEK ET AL.

Examiner

Asfand M. Sheikh

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 3/10/2009 have been fully considered but they are not persuasive:

With respect to claims 1 and 6, the applicant argues Frederick in view of Lucas fails to teach or suggest "automatically generating, via a computing device, a purchase order from said data in response to one or more items contained in a storage location being diminished below a predetermined level." The examiner disagrees.

The examiner notes Frederick discloses a report generating device (e.g. terminal) that has the ability to generate a restocking report (e.g. purchase order) for items that need to be replenished (see at least, col. 57, lines 4-17). The examiner notes Frederick fails to disclose automatically, generating in response to one or more items containing in a storage location being diminished below a predetermined level. However Lucas discloses automatically generating in response to one or more items containing in a storage location being diminished below a predetermined level (see at least, col. 4, lines 6-19), more specifically: "as quantity in-stock approaches a specified threshold the CIS may automatically request new supplies from the server..." The examiner notes the combination of elements from both Frederick in view Lucas disclose the claimed invention, and further the examiner notes one of ordinary skill in the art would have had the knowledge to combine the elements from Frederick in view of Lucas in order to obtain a predictable result, therefore this argument is not persuasive.

With respect to claims 25 and 26, the examiner note Frederick discloses storage units that are comprised of cabinets (see FIG. 55) , therefore this argument is not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederick et al. (US 6,112,502) in view of Lucas (US 6,996,538 B2).

Claim 1 and 6 and 8

Frederick discloses a method comprising: at a health care facility: generating data representative of dispensed items (see at least, col. 2, lines 29-31); transmitting said data to a central database (see at least, col. 57, lines 4-17); **generating, via a computing device, a purchase order from said data for items requiring replenishment** (see at least, col. 57, lines 4-17); assembling the items, in each item's manufacturer packaging, identified in said purchase order (see at least, col. 56, lines 59-col. 57, lines 17); and distributing the assembled items to the healthcare facility (see at least, col. 56, lines 59-col. 57, lines 17).

Frederick fails to disclose automatically **generating in response to one or more items containing in a storage location being diminished below a predetermined**

level and a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility.

However Lucas discloses automatically **generating in response to one or more items containing in a storage location being diminished below a predetermined level (see at least, col. 4, lines 6-19)** and a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility (see at least, abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Frederick to include a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility as taught by Lucas. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a third party VMI service for a company, because it gains significant buying power which it can use to negotiate better deals, improve supplier responsiveness, and streamline the buying process (see at least, col. 2, lines 35-44).

Claim 2 and 7

Frederick discloses additionally comprising, before transmitting said purchase order, manually reviewing said purchase order (see at least, col. 56, lines 59-col. 57, lines 17).

Claim 3 and 9

Frederick discloses additionally comprising using the shipped items to replenish a restocking location at the health care facility (see at least, col. 56, lines 59-col. 57, lines 17).

Claim 4 and 10

Frederick discloses wherein said assembled items are shipped in a tote, said method additionally comprising marking said tote with a bar code (see at least, col. 57, lines 36-48).

Claim 5 and 11

Frederick discloses additionally comprising notifying the healthcare facility of the bar code and identifying the items in the tote associated with said bar code (see at least, col. 56, lines 59-col. 57, lines 58).

Claims 25 and 26

Frederick discloses wherein the storage location comprises a cabinet (see at least, FIG. 40).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/
Examiner, Art Unit 3627
6/19/2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627